Board of Respiratory Care
Interpretations of Statues and Regulations

October 1994

The Board of Respiratory Care has received various inquiries regarding the rendering of respiratory care services in the home and by unlicensed individuals. The Board wishes to make know in wide distribution its interpretations of the statute and regulations governing the practice of respiratory care.

Therefore, this document, which cites the relevant statues and regulations, provides the Board's interpretation of certain regulations, and presents possible actions available to the Board and the Commonwealth of Massachusetts if the statutes and regulations are violated.

Anyone wishing further information or clarification should direct their questions in writing to the:

Board of Respiratory Care
239 Causeway Street, Suite 200
Boston, MA 02114

The practice of Respiratory Care in the Commonwealth of Massachusetts is governed by M.G.L. c. 13, s 11B; G.L. c. 112, ss. 23R through 23BB, inclusive; and regulations 261 CMR 2.00 through 5.00 inclusive. The Board of Respiratory Care (the "Board") is established pursuant to and functions under the authority and provisions of the cited statutes. The Board has adopted the following interpretations of certain sections of its regulations:

1. The rendering of Respiratory Care services as defined in 261 CMR 2.02 requires a license unless specifically excluded in 261 CMR 2.05

2. Provision 261 CMR 2.08 (4) requires that "The respiratory care services provided by the holder of a Limited Permit must be performed under the supervision of a Respiratory Therapist, as required by G.L. c.112, s. 23V(c). "Supervision" is defined in 261 CMR 2.02 as "the director of the respiratory care department or his designee, provided such director or designee is a respiratory therapist, is on the premises and available to give aid, direction and instruction…"
   Interpretations: A holder of a Limited Permit can only render respiratory care services with a licensed respiratory therapist <u>on the premises</u> , (i.e. in the home at the time of therapy)

3. Provision 261 CMR 2.05(5) states the "A respiratory care license is not required for …cleaning, sterilizing, disinfecting, assembling, and disassembling of respiratory care equipment.
   Interpretations: The Board has determined that an unlicensed individual may provide instruction on these aspects of respiratory care equipment, provided the individual has been properly trained to do so.

4. Provision 261 CMR 2.05(8) states that "A respiratory care license is not required for … the transportation or delivery of compressed gas cylinders and other respiratory care devices to a home, hospital, or other locations.

   Interpretations: the Board reaffirmed that only a licensed individual may administer or cause to be administered, the initial treatment and/or initiation of therapies other than oxygen therapy. Unlicensed individuals rendering therapies defined as "Respiratory Care" such as adult nasal CPAP, oral suction, and nebulizers with medications would be in violation of the law. Self-administration by the patient or administration by a patient's family member etc. does NOT relieve nor satisfy the requirement for a licensed individual to instruct the patient and to deliver the initial therapy.

5. Provision 261 CMR 2.02 Respiratory Care states that "Respiratory Care practice includes, but is not limited to the therapeutic and diagnostic use of the following as ordered by a physician: medical gases, gas administering devices…"
   Interpretations: the Board recognizes that oxygen therapy is unique because of the need for continuous administration. Therefore, the Board has determined that a properly trained, unlicensed individual may change the source of oxygen (e.g. transfer the patient from E cylinder to a concentrator) provided:

   (1) that it has been documented that the patient clearly tolerates the amount of oxygen prescribed for the use in the home: and
   (2) that it has been documented that a licensed individual has established/verified that the patient is receiving the prescribed amount of oxygen at the time of discharge; and
   (3) that in transferring the patient from one source of oxygen to another, the liter flow and the administration device in the home are comparable to the discharge amount and device; and
   (4) that a licensed individual visit the patient within 24 to 48 hours after the patient arrives at home and document: verification of the prescribed therapy, instruction of the patient/family , and evaluation of the patient relative to the oxygen therapy.

   The Board has also determined that Emergency Medical Technicians (EMT's) may:
   (1) Deliver oxygen equipment to a patients home;
   (2) Set up oxygen equipment in the patient's home;
   (3) Place the patient on the prescribed liter flow using the following oxygen administration devices; nasal cannula, simple mask, air-entrainment masks, partial rebreathing masks, and non-rebreathing masks, and
   (4) Render the above respiratory care services provided the patient does not have any kind of artificial airway. An EMT may provide those services , if a Respiratory Therapist (licensed) makes a follow-up visit within 24 to 48 hours of the delivery of the equipment. It was further determined that Respiratory Therapists must render all other respiratory care services (e.g. hand-held nebulizers, suction machines, Nasal CPAP, etc) However, an EMT may NOT perform follow-up visits to determine the proper functioning of the equipment (unless additional appropriate training is provided) and may NOT perform follow-up patient evaluation visits (under any circumstances).

Regulations 261 CMR 4.00 govern the disciplinary proceedings of the Board for the disposition of matters relating to the practice of respiratory care by any person holding or having held a license issued by the Board.

1. Provision 4.04(5) states that "A complaint against a licensee may be based on any of the following:.. Commitment of an offense against any provision of the laws of the Commonwealth relating to the practice of respiratory care, or any rule or regulation adopted thereunder;... knowingly permitting, aiding or abetting an unlicensed person to perform activities requiring a license… ; having acted in a manner which is professionally unethical according to the ethical standards of the profession of respiratory care".

   One provision of the Code of Ethics of the American Association of Respiratory Care states that "The respiratory care practitioner shall be responsible for the competent and efficient performance of his assigned duties and shall expose incompetence and illegal or unethical conduct of members of the profession."

2. Disciplinary action by the Board and/or offenses outside the jurisdiction of the Board would be considered for referral to the appropriate agency (e.g. Attorney General's Office, Department of Public Health, JCAHO, etc)